

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3919 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI
and
Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

MUNICIPAL CORP.OF AHMEDABAD

Versus

UNION BANK OF INDIA

Appearance:

MR MG NAGARKAR for appellant
MR SS PANESAR for Respondent No. 1

CORAM : MR.JUSTICE M.H.KADRI
and
MR.JUSTICE D.P.BUCH

Date of decision: 17/06/2000

ORAL JUDGMENT (per Kadri, J.)

The appellant, Ahmedabad Municipal Corporation,

by filing this Appeal under section 411 of the Bombay Provincial Municipal Corporations Act, 1949 (for short, 'the Act') has challenged the judgment and order dated July 20, 190 passed by the learned Judge, Court No.5, Small Causes Court, Ahmedabad in Municipal Valuation Appeal No.11950 of 1987.

2. By the said judgment and order, the learned Judge of the Small Causes Court reduced the G.R.V. fixed by the present appellant from Rs. 1,30762/- to Rs. 92,412/-. The respondent-Union Bank of India is the tenant of the property bearing survey No.109/3+109/4+109/5 situated in ward Rakhial-2, Ahmedabad. The said property is leased to the respondent-bank by the landlord and the monthly rent as per the lease deed produced at Exh.3/3 was of Rs.7701/-. In support of the case, the respondent had produced copy of the rent receipt on record of M.V. Appeal No.11950/87. The G.R.V. of the property leased to the bank for the year 1987-88 was fixed at Rs.1,37,762/- by taking into account the rent + tax which was borne by the tenant i.e. the respondent bank. The said fixation of G.R.V. was challenged by the respondent by filing the above numbered M.V. Appeal in the Small Causes Court, Ahmedabad. The Small Causes Court came to the conclusion that since the tax is directly paid by the tenant to the Municipal Corporation, the G.R.V. was liable to be fixed only on monthly rental basis and accordingly the Small Causes Court fixed the G.R.V. of the premises in question at Rs.92,412/- and partly allowed the appeal filed by the respondent which order is challenged in this appeal.

3. Learned counsel Mr M G Nagarkar has submitted that a Full Bench of this Court in the case of Municipal Corporation, Ahmedabad v. Canara Bank (1993 (1) G.L.H. 180, has held that when under the contract of tenancy taxes are agreed to be paid by the tenant to the municipal authorities directly, the amount of these taxes can be included in the term "Annual Letting Value" as defined under Section 2(1A) of the Act for the purpose of computing gross rateable value of the rented premises for the purpose of levying property tax by the Corporation under the Act.

4. In our view, the question involved in this appeal is squarely covered by the judgment of the Full Bench in Canara Bank's case (supra). We, therefore, quash and set aside the G.R.V. fixed by the Small Causes Court at Rs.92,412/- for the year 1987-88. The Appeal is, therefore, required to be allowed and it is hereby

allowed. The matter is remanded back to the Small Causes Court, which shall fix the G.R.V. of the premises in question as per the principles laid down in Canara Bank's case (supra).

The matter is remanded back to the Small Causes Court with a direction that the Municipal Valuation Appeal, being of the year 1989, the Court shall give priority to it and shall decide the appeal preferably within three months from the date of this order. No order as to costs.

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msp